



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

| | | | |
|-------------------------|-----------------|----------------|------------------------------------|
| Bill # | HB0215 | Title: | Regulate refund anticipation loans |
| Primary Sponsor: | Augare, Shannon | Status: | As Introduced |

- | | | |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

| | <u>FY 2010 Difference</u> | <u>FY 2011 Difference</u> | <u>FY 2012 Difference</u> | <u>FY 2013 Difference</u> |
|--|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| Expenditures: | | | | |
| State Special Revenue | \$1,000 | \$500 | \$512 | \$525 |
| Revenue: | | | | |
| State Special Revenue | \$0 | \$0 | \$0 | \$0 |
| Net Impact-General Fund Balance | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

Description of fiscal impact:

The operational expenses associated with this bill will be paid by the Banking Division's state special revenue account. There is no estimated impact to the general fund.

FISCAL ANALYSIS

Assumptions:

Department of Administration – Banking and Financial Division

1. The department estimates that there are 75 offices of refund anticipation loan facilitators conducting business in Montana. The department estimates that only 15 of these offices will be subject to the provisions of the Montana Refund Anticipation Loan Act (Act) because of exemptions contained within the Act and legal precedent.
2. The program will be administered by existing department staff.
3. Operating expenses will be \$1,000 in FY 2010 and \$500 in FY 2011. The operating expenses will include the cost of file storage, supplies and postage. An operating expense of \$500 will continue in both FY 2012 and FY 2013. A 2.5% inflationary factor is included in FY 2012 and FY 2013.
4. The bill provides authority for the department to conduct investigations of facilitators of refund anticipation loans. Facilitators of refund anticipation loans are not currently regulated in Montana. It is impossible for the department to estimate how many investigations may be conducted by the department.

The estimated additional operating cost for an investigation based on a 2-day round trip examination would be \$164.

5. The bill provides for fines in the amount of \$500 for each violation of the Act. It is impossible for the department to estimate how many fines may be issued for violations of the Act.

| | <u>FY 2010 Difference</u> | <u>FY 2011 Difference</u> | <u>FY 2012 Difference</u> | <u>FY 2013 Difference</u> |
|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <u>Fiscal Impact:</u> | | | | |
| <u>Expenditures:</u> | | | | |
| Operating Expenses | \$1,000 | \$500 | \$512 | \$525 |
| TOTAL Expenditures | <u>\$1,000</u> | <u>\$500</u> | <u>\$512</u> | <u>\$525</u> |
| <u>Funding of Expenditures:</u> | | | | |
| State Special Revenue (02) | \$1,000 | \$500 | \$512 | \$525 |
| Other | \$0 | \$0 | \$0 | \$0 |
| TOTAL Funding of Exp. | <u>\$1,000</u> | <u>\$500</u> | <u>\$512</u> | <u>\$525</u> |
| <u>Revenues:</u> | | | | |
| State Special Revenue (02) | \$0 | \$0 | \$0 | \$0 |
| TOTAL Revenues | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |
| <u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u> | | | | |
| State Special Revenue (02) | (\$1,000) | (\$500) | (\$512) | (\$525) |

Technical Notes:

1. This act can not apply to third party agents or servicers of a national bank, thrift, savings and loan association, industrial bank, or credit union operating under the laws of the United States. This is because these entities are created and regulated by federal law. State law is preempted by federal law. A recent appellate court case held that a third party agent acting as a servicer for a national bank was exempt from a state law that regulated refund anticipation loans. The court held that national banks could exercise all the incidental powers necessary to carry on the business of banking through the use of authorized agents. Those authorized agents are exempt from state law requirements when acting on behalf of a national bank.

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date